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September 13, 1988

6500 Industrial Highway Group
Joseph E. Costanza, Esq.
Burke, Murphy, Costanza & Cappy
First National Bank Building
720 W. Chicago Avenue
East Chicago, Indiana 46312

Re: Conservation Chemical Company of Illinois, et al.
Environmental Protection Agency Region V
Administrative Order under Section 106 of CERCLA

Dear Mr. Costanza:

We are responding on behalf of our client, Chemlime Corp., to your letter of August 15, 1988, regarding the Conservation Chemical Company Superfund site in Gary, Indiana.

When our client was first advised of its possible involvement in this matter, we requested a copy of the relevant pages from EPA's May 2, 1986 Case Preparation Assistance Report relating to incoming waste transactions at the Superfund site. Those pages were forwarded to us by letter dated April 1, 1987. In reviewing that information, we note that all incoming transactions involving Chemlime Corp. were purchases by Conservation Chemical Company of lime, lime slurry or lime liquid. There is no indication in the documents provided to us that any substance generated by Chemlime Corp. was transported or delivered to the Superfund site for treatment or disposal. To the contrary, the lime products were used as a raw material in Conservation Chemical's process.

We call your attention to the opinion in Edward Hines Lumber Co. v. Vulcan Materials Co., 27 ERC 1904 (N.D. Ill. 1988), in which the court held that the mere sale of a hazardous substance to the operator of a facility that becomes a Superfund site does not constitute arranging for the disposal or treatment of a hazardous substance. Consequently, a party in the position of Chemlime in this case is not a potentially responsible party subject to a cost recovery claim or a claim for contribution by other PRP's. Therefore, Chemlime Corp. respectfully rejects the claim of the 6500 Industrial Highway Committee that it is liable

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for any share of the costs incurred at the Conservation Chemical Company Superfund site in Gary and declines the offer of settlement set forth in your letter of August 15.

Sincerely,


John W. Ubinger, Jr.

JWU:lma